

23 August 2018

Peter Swan  
Investment Consultancy Market Investigation  
Competition and Markets Authority  
Victoria House  
Southampton Row  
London  
WC1B 4AD

Dear Mr Swan

### **Investment Consultants Market Investigation – Provisional Decision report (18 July 2018)**

Further to your invitation to respond to the provisional findings and remedies set out in your Provisional Decision report of 18 July 2018, we set out our views below.

#### **Introduction**

Legal & General Investment Management (LGIM) welcomes the findings of the Competition and Markets Authority's investigation into UK investment consultancy and fiduciary management services.

The CMA has found that investment consultancy firms benefit from an incumbency advantage when selling their own products and services. We believe this is the key issue which remedies must address, and we welcome the efforts made by the CMA to improve competition and transparency in this area.

We also welcome the CMA's finding that there is no evidence that transparent fiduciary management offerings which make use of in-house funds (such as LGIM's) lead to competition problems.

We set out below our views on the CMA's proposed package of remedies.

#### **Remedy 1 – Mandatory competitive tendering on first adoption of fiduciary management**

The CMA has found that IC-FM firms may steer their advisory customers towards their own fiduciary management services, making use of their 'trusted advisor' status. This limits their customers' ability to benefit from the alternative approaches and price competition available in the wider market.

We support mandatory competitive tendering, but have concerns it may not significantly affect the extent to which IC-FM firms are able to steer their advisory customers. This is because IC-FM firms are able to leverage their existing relationship *prior* to any formal tender process, through their ongoing ability to influence client investment thinking. If this remedy is implemented we therefore recommend that the CMA undertakes ongoing monitoring to assess fiduciary management market concentration.

We also note that for smaller schemes a mandatory tendering regime could serve as a significant barrier to the adoption of fiduciary management. As a result we would have concerns if the proposed mandatory tendering regime became too burdensome and costly. As highlighted in the Department for Work and Pensions' March 2018 white paper, 'Protecting defined benefit pension schemes', smaller schemes suffer due to lower governance budgets and therefore are less likely to benefit from quality investment opportunities. We therefore do not believe that trustees should be required to undertake an unnecessarily expensive and time-consuming process before implementing a more efficient investment solution. We believe this would lead to worse outcomes for many pension schemes by creating a disincentive to action.

### **Remedy 2 – Mandatory warnings when selling fiduciary management services**

We believe that a requirement for IC-FM firms to give notice to their advisory clients when discussing their fiduciary management services would be positive and allow clients to distinguish investment advice from marketing material. However, when constructing the disclosure requirements the CMA should be mindful that identifying whether a document is advice or marketing is unlikely to be simple. For example, a document which influences trustees' overall investment thinking might not meet the chosen criteria for promotion of fiduciary management, but it increases the likelihood that clients' adopted investment beliefs will closely match those subsequently presented as part of the IC-FM firm's fiduciary management solution.

In addition, the CMA may wish to consider whether this principle should apply more widely than IC-FMs. For example where investment consultants act as a third party evaluator (TPE), or where IC firms promote implementation services and other governance solutions that share many common features with fiduciary management but are not referred to as such (e.g. investment advice combined with investment platform solutions).

### **Remedy 3 – Enhanced trustee guidance on competitive tender processes**

We agree that the Pensions Regulator (tPR) would be best-placed to guide trustees who are considering appointing a fiduciary manager in order to reduce risk and improve scheme governance.

We note that there are only a small number of fiduciary management providers, as opposed to the thousands of potential investment funds, products or securities that are available to institutional investors. Given this, we believe it would be highly beneficial for smaller schemes if tPR was able to maintain a list of fiduciary managers. This would enable the trustees of smaller schemes to quickly, easily and cost-effectively obtain fee quotes from a range of providers.

### **Remedy 4 – Requirement on firms to disaggregate fiduciary management fees to existing customers**

We are supportive of fee transparency in fiduciary management, and welcome the CMA's desire to aim for consistency with broader industry fee disclosure templates.

### **Remedy 5 – Minimum requirements on firms for fee disclosure when selling fiduciary management**

We are supportive of the CMA's proposal for standardised fee disclosures when selling fiduciary management. We believe it is particularly important that prospective clients are able to compare likely total fees for a mandate, including any 'hidden' costs.

### **Remedy 6 – Standardised methodology and template for reporting past performance of fiduciary management services to prospective clients**

We are supportive of the work that IC Select has carried out to date in the development of a fiduciary management performance standard, and believe that their current plan for finalising and implementing the standard is sound.

### **Remedy 7 – Duty on trustees to set their investment consultant’s strategic objectives**

We believe that an option here could be for trustees to monitor the performance of their investment consultant in line with the IC Select fiduciary management performance standard. The standard assesses the overall performance of scheme assets relative to liabilities based on an expected return range, which is as relevant for an investment consulting mandate as for a fiduciary management mandate. Consistency of performance standard between fiduciary management and advisory mandates would make it easier for trustees to assess the merits of one approach relative to the other.

### **Remedy 8 – Establish basic standards for how investment consultants and fiduciary managers report performance of recommended asset management ‘products’ and ‘funds’**

We are supportive of improved transparency and rigour around the reporting of value added or lost through manager selection activity.

### **Recommendation A – Extension of FCA regulatory perimeter**

We are supportive of the proposals to extend the FCA’s regulatory perimeter.

### **Recommendation B – Enhanced trustee guidance and oversight of remedy 1**

We have no additional comments on this proposed remedy, other than those set out in response to remedy 1 above.

### **Recommendation C – Improving information on underlying asset management fees and performance**

We welcome the CMA’s desire to aim for consistency with broader industry fee disclosure templates.

## **Legal & General Investment Management**